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2 UNITED STATES DISTRICT COURT
3 WESTERN DISTRICT OF WASHINGTON
4 AT TACOMA

5 SUE ANN EDWARDS,

6 Plaintiff,

7 v.

8 JPMORGAN CHASE BANK
9 NATIONAL ASSOCIATION, et al.,

10 Defendants.

CASE NO. C17-5770 BHS

ORDER GRANTING
DEFENDANTS' MOTIONS TO
DISMISS AND GRANTING
PLAINTIFF LEAVE TO AMEND

11 This matter comes before the Court on Defendant JPMorgan Chase Bank National
12 Association's ("Chase") motion to dismiss all claims (Dkt. 9) and Defendant Quality
13 Loan Service Corp Washington's ("Quality") joinder in Chase's motion (Dkt. 10). The
14 Court has considered the pleadings filed in support of and in opposition to the motions
15 and the remainder of the file and hereby rules as follows:

16 **I. PROCEDURAL HISTORY**

17 On September 14, 2017, Plaintiff Sue Ann Edwards ("Edwards") filed a complaint
18 against Chase and Quality asserting claims for fraud, misrepresentation and concealment,
19 and that her deed of trust is void ab initio. Dkt. 1.

20 On September 27, 2017, Chase removed the matter to this Court. Dkt. 1.

21 On October 12, 2017, Chase filed the motion to dismiss. Dkt. 9. Chase argues
22 that Edwards's claims are barred by res judicata or collateral estoppel based on her
previous actions in this Court. Dkt. 9 at 12 (citing *Edwards v. JP Morgan Chase Bank*

1 NA, No. C10-5839BHS (W.D. Wash)). On October 13, 2017, Quality filed a joinder in
2 Chase's motion fully adopting Chase's arguments. Dkt. 10. On November 1, 2017,
3 Edwards responded. Dkt. 13. On November 3, 2017, Chase replied and move to strike
4 Edwards untimely response. Dkt. 14.¹

5 II. DISCUSSION

6 Res judicata bars the re-litigation of claims that were or should have been litigated
7 in a prior action. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002). "Res
8 judicata is applicable whenever there is (1) an identity of claims, (2) a final judgment on
9 the merits, and (3) privity between parties." *Tahoe-Sierra Pres. Council, Inc. v. Tahoe*
10 *Reg'l Planning Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003) (quotation omitted).
11 "[I]dentity of claims exists when two suits arise from the same transactional nucleus of
12 facts. Newly articulated claims based on the same nucleus of facts may still be subject to
13 a res judicata finding if the claims could have been brought in the earlier action." *Id.* at
14 1078 (quotations omitted).

15 In this case, Chase argues that Edwards's claims are barred by res judicata. Dkt.
16 9. Edwards counters that her claims have nothing to do with Chase because she "does
17 not seek to assign any accountability or responsibility" to Chase. Dkt. 13. This is an
18 interesting argument because she specifically names Chase in the complaint and brings
19 claims against Chase. Regardless, Edwards could have brought these newly articulated
20 claims in the prior action, which involved the same parties and proceeded to final

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22 ¹ The Court denies the motion to strike because Chase is not prejudiced by the Court's
consideration of the response.

1 judgment. Accordingly, the Court grants Chase's motion because Edwards's claims are
2 barred by res judicata.

3 Regarding Quality, it is unclear what claims Edwards asserts against this
4 company. Chase asserts that Quality was appointed to serve as the trustee for the current
5 foreclosure. As such, Quality has failed to show that it was either a party in the previous
6 matter or is in privity with a party in the prior matter. Quality, however, argues that
7 Edwards fails to state a claim upon which relief may be granted. Dkt. 10. The Court
8 agrees and grants Quality's motion to dismiss. The Court also grants Edwards leave to
9 amend because it is not "absolutely clear that the deficiencies of the complaint could not
10 be cured by amendment." *Broughton v. Cutter Labs.*, 622 F.2d 458, 460 (9th Cir. 1980).

11 **III. ORDER**

12 Therefore, it is hereby **ORDERED** that Chase's motion to dismiss (Dkt. 9) is
13 **GRANTED** and Edwards's claims against Chase are **DISMISSED with prejudice**,
14 Quality's motion to dismiss (Dkt. 10) is **GRANTED**, and Edwards is **GRANTED** leave
15 to amend her claims against Quality. Edwards may file an amended complaint no later
16 than January 12, 2018. Failure to file an amended complaint or otherwise timely respond
17 will result in **DISMISSAL** of the complaint.

18 Dated this 14th day of December, 2017.

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21 **BENJAMIN H. SETTLE**
22 United States District Judge